The DFI Update

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The DFI Update
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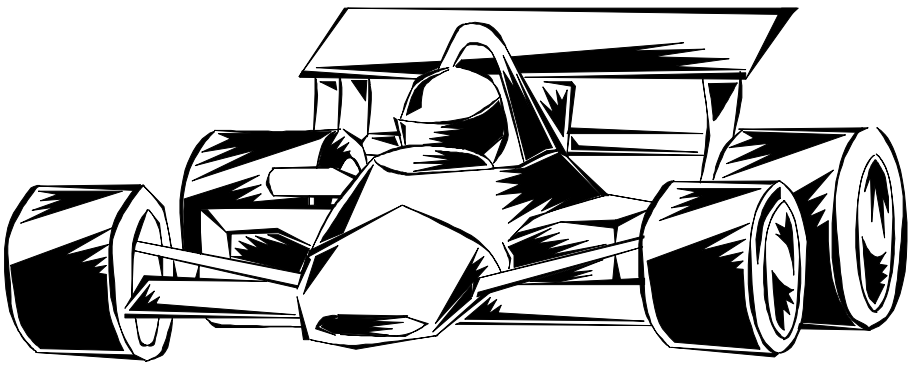
INSIDE



DFI IMPLEMENTS CENTRAL POINT OF CONTACT PROGRAM

Each state chartered bank; savings and loan association and corporate fiduciary recently received correspondence from the Department outlining the newly developed Central Point of Contact (CPC) program. The letter listed the name of the Department's professional staff member assigned to each institution on an ongoing basis for the next 3-5 years. While the Department has always taken pride in the strong relationships with supervised financial institutions, we believe that this program recognizes the value of open communication, personal interaction, and deepened professional relationships between each institution and the assigned examiners. By designating an examiner that will be available to you, and be responsible for monitoring your institution on a continuing basis, we believe that we can further improve communication between your institution and the Department.

The CPC program also represents a natural extension of the Department's ongoing efforts to streamline the examination process. Our goal is that as examiners develop a deeper understanding of the unique characteristics of each institution and the markets served, they will be more effective in scoping examinations and eliminating repetitive examination procedures. Continuity between alternating state and federal examinations should also result from this program.

The examiner selected will, in most cases, serve as the Examiner-in-Charge at the assigned institution for the next several examinations. In addition to formulating examination strategies and conducting the examination, the examiner will monitor each institution's performance between examinations. In this regard, they will likely be contacting you regarding business plans, performance trends, and other issues. Their knowledge of your institution also makes them the logical member of the DFI staff to contact regarding issues that may arise between examinations. They will facilitate discussions with other DFI staff members as well. Of course, all employees of the Department will continue to remain available to you.

Each institutions role in this process is important as well. By keeping the CPC informed of emerging trends, issues, concerns and changes in strategic plans, the examiner will be better equipped to develop appropriate supervisory strategies for future examinations. Utilizing the CPC as a sounding board can be beneficial to you as well in addressing regulatory concerns prior to the on-site examination.

During the next few weeks the CPC assigned to each institution will be making contact to explain the program in greater detail, introducing themselves to you, and establishing a dialogue regarding the condition and future plans for each institution. Please take advantage of this opportunity to communicate any specific concerns or issues you may have.

FINANCIAL MODERNIZATION

Interim Rules Issued To Implement "GLBA"

The Federal Reserve Board issued an interim rule effective on March 11, 2000, implementing the Financial Services Modernization Gramm-Leach-Bliley Act of 1999 ("GLBA") provisions that

permit qualifying state member bank financial subsidiaries to conduct activities that are financial in nature or incidental to a financial activity. Under the rule, permissible activities include general insurance agency and travel agency activities. In addition, a financial subsidiary may engage in underwriting, dealing in and making a market in all types of securities - activities previously prohibited for subsidiaries of state member banks by the Glass-Steagall Act. A financial subsidiary also may conduct any activity that the state member bank is permitted to conduct directly. Generally speaking, a financial subsidiary may not engage as principal in underwriting insurance, providing or issuing annuities, real estate development or real estate investment, and merchant banking and insurance company investment activities. The Fed's rule is similar to the OCC's financial subsidiary regulations for national banks.

The FDIC issued a corresponding interim rule which became effective March 11, 2000, to implement the GLBA provisions permitting subsidiaries of state nonmember banks to engage in financial activities (including securities underwriting) similar to activities national banks are permitted to conduct through financial subsidiaries. All activities conducted by a state member bank through a financial subsidiary must be authorized under Indiana law. Under the interim rule, a state nonmember bank must submit a notice to the FDIC to engage in financial activities through a subsidiary.

To engage in activities under the interim rule, the bank must be well-capitalized after deducting its investment in the subsidiary, maintain compliance with the amendments to sections 23A and 23B of the Federal Reserve Act that treat financial subsidiaries as affiliates of the bank, and comply with required operational and financial safeguards.

The revisions are incorporated into a new Subpart E of 12 C.F.R. Part 362. Certain activities formerly addressed under subpart A of part 362, such as general securities underwriting, are now authorized for a financial subsidiary of a national bank. This means such activities will now be analyzed under the GLBA's list of permissible activities, and the restrictions the FDIC previously outlined in subpart A of part 362 will not apply.

Activities that national bank financial subsidiaries are specifically prohibited from engaging in as principal, such as real estate development or investment, will continue to be dealt with under section 24 and subpart A of part 362. Also, as the Secretary of the Treasury determines that additional activities are authorized for a financial subsidiary, such activities will cease being governed by section 24 or subpart A of part 362, and will begin being governed by new Subpart E.

In 1999, the Indiana Code (IC 28-13-16) was amended to provide for more flexibility in the formation of operating subsidiaries. A bank is now allowed to hold an active minority interest in a subsidiary that engages in activities that are incidental to banking or are authorized for a national bank. The Department revised its Policy for the Establishment of a Bank Subsidiary on December 9, 1999; to accommodate the changes made by the legislature in 1999. The policy is available on the Department's website at www.dfi.state.in.us. State banks in Indiana are authorized to take advantage of the revisions made to federal law concerning bank financial subsidiaries. If there are questions or concerns about the ability of a state bank to engage in newly authorized activities, please contact the Department.

UNAUTHORIZED BANKING INSTITUTIONS

The Department of Financial Institutions recently discovered that 35 entities have filed Articles of Incorporation with the Secretary of State's office with the word "bank" in their name. These entities have not been approved by the Department of Financial Institutions and are in violation of IC 28-1-20-4. These "bank" charters are being sold via the Internet. Several are currently advertising themselves on the Internet as legitimate banking institutions chartered in the state of Indiana. Below is a copy of a Special Alert that the Federal Deposit Insurance Corporation issued. If you have any information on the entities listed below, please contact the Department at (317) 232-3955 and the FDIC at the address listed below.

FDIC

Financial Institution Letters

Special Alert

FIL-18-2000
March 21, 2000

TO: CHIEF EXECUTIVE OFFICER
SUBJECT *Entities That May Be Conducting Banking Operations In the United States Without Authorization*

The Federal Deposit Insurance Corporation (FDIC) has learned that the following entities may be operating a banking business in the United States illegally or without authorization. All of the entities were incorporated in the State of Indiana; however, the location(s) of their actual operations is unknown. The State of Indiana Department of Financial Institutions has not issued banking licenses to these entities, and they are not authorized to conduct a banking business in the state. Proposed transactions involving these entities should be viewed with extreme caution.

American Bank of Commerce Corp.
American Overseas Bank for Trade, Inc.
American Overseas Trust Bank, Inc.
Benelux Bank of Commerce & Credit, Inc.
British Royal Bank of Commerce, Inc.
California Bank for Commerce & Industry, Inc.
California Bank of Commerce, Inc.
Canadian-American Banking Corporation for Trade, Inc.
Channel Island Bank of Trade, Inc.
Charter Bank of USA, Inc. (a/k/a Charter Bank of America, Inc.)
Credit & Guaranty Bank for Commerce & Industry, Inc.
Credit Bank of the Americas, Inc.
FIR Bank & Trust Corp.
First International Commonwealth Bank Corporation
First Interstate Bank of the Americas, Inc.
First National Bank of the Americas, Inc.

First National Commonwealth Bank Corp.
First Royal Bank of Commerce, Inc.
First State Bank of the USA, Inc. (f/k/a Caralfan International Bank Corporation, Inc.)
Geneva Bank of Commerce & Credit, Inc.
Intercontinental Bank of the Americas, Inc.
Intercontinental Bank of the Middle East, Inc.
Monaco Bank of Commerce, Inc.
National Bank of Commonwealth Corp.
National Bank of Comores, Inc.
Overseas Investment Banking Corporation for Trade, Inc.
Redland Merchant Bank of New York, Inc.
Reserve Bank & Trust of the Americas, Inc.
Royal Trust Bank of the Americas, Inc.
Saudi Bank of the Middle East & the Americas, Inc.
Transcontinental Investment Banking Corporation, Inc.
Transpacific Investment Banking Corporation of Commerce, Inc.
U. S. Bank for Trade & Industry, Inc.
U. S. Banking Confederation for Investment, Inc.
Wall Street Investment Banking Corporation, Inc.

Please forward any information concerning these entities to the State of Indiana Department of Financial Institutions, 402 West Washington Street, Room W066, Indianapolis, Indiana 46204. Information about these entities also may be forwarded to the FDIC's Special Activities Section, 550 17th Street, NW, Room F-6012, Washington, DC 20429. For your reference, all FDIC Financial Institution Letters published since January of 1995 may be found on the FDIC's Web site at www.fdic.gov under "News, Events & FOIA."

James L. Sexton
Director

Distribution: FDIC-Supervised Banks (Commercial and Savings)
NOTE: Paper copies of FDIC financial institution letters may be obtained through the FDIC's Public Information Center, 801 17th Street, NW, Room100, Washington, DC 20434 (800-276-6003 or 202-416-6940).

YEAR END FINANCIAL RESULTS

During the calendar year of 1999 the number of state-chartered commercial banks, stock and mutual savings banks, and active industrial authorities declined in number from 138 to 131. During the same period total supervised assets increased from $25.4 billion to $25.6 billion. As of December 31, 1999, state-chartered commercial banks represented 39% of total Indiana bank assets (state and national). In contrast, state-chartered commercial banks represented 80% of the total number of such banks in the state of Indiana. As of December 31, 1999, there were 33 national and 131 state-chartered banks in Indiana.

During 1999, three new state-chartered commercial banks officially opened for business. Nine state bank charters were eliminated through mergers with other state or national banks. One state-chartered stock savings bank converted to a federal stock savings bank.

Indiana state-chartered financial institutions remained in stable financial condition and performance during the 1999 calendar year. Net income of $284 million declined slightly from $298 million recorded during the 1998 calendar year. Net income as a percentage of (ROA) assets (in the aggregate) decreased from 1.26% in 1998 to 1.19% in 1999. The sustained profitability measure is attributed to strong loan growth and maintenance of sound credit quality. The aggregate loan and lease loss allowance decreased from l.37% of total loans in 1998 to 1.35% of total loans in 1999 due to loan growth outpacing provision expense. Net charge offs for the 1999 calendar year decreased from .21% to .13% of total loans compared to 1998. Equity capital decreased slightly from 9.16% of total assets at year-end 1998 to 9.13% of total assets at year-end 1999.

The trend analysis utilized the following consolidated balance sheet, consolidated income statement and ratio analysis for all state chartered commercial banks, savings banks, active industrial authorities and national commercial banks. Information to compile these schedules was obtained through the Federal Deposit Insurance Corporation's Database.

1999 YEAR END FINANCIALS

ACCOUNT DESCRIPTIONS *(IN MILLIONS OF $)*	State 12/31/99	National 12/31/99	State 12/31/98	National 12/31/98	State 12/31/97	National 12/31/97
Number of Banks	131	33	138	38	152	42
Income Statement						
Total Interest Income	1,759	2,739	1,780	3,121	1,910	2,986
Total Interest Expense	799	1,201	850	1,470	918	1,328
Net Interest Income	960	1,538	930	1,651	992	1,658
Total Non Interest Income	237	1,532	233	1,052	212	531
Loan Provisions	46	120	55	141	55	125
Total Non Interest Expense	689	1,805	661	1,632	690	1,228
Net Income	284	730	298	632	303	555
Ratio Analysis						
Net Income to Average Assets	1.19%	1.85%	1.26%	1.58%	1.25%	1.42%
Net Income to Total Equity	12.17%	19.45%	12.81%	14.90%	12.23%	17.51%
Net Interest Income to Average Assets	4.02%	3.89%	3.93%	4.12%	4.08%	4.24%
Total Loans to Total Deposits	88.95%	97.15%	82.84%	98.24%	83.17%	93.23%
Loan Loss Provisions to Total Loans	0.26%	0.47%	0.32%	0.41%	0.31%	0.44%
Loan Loss Reserves to Total Loans	1.35%	1.65%	1.37%	1.39%	1.39%	1.53%
Net Charge-Offs to Total Loans	0.13%	0.44%	0.21%	0.38%	0.20%	0.42%
Total Equity Capital to Total Assets	9.13%	9.29%	9.16%	8.68%	9.41%	7.62%
Total Equity Capital and Reserves to Total Assets and Reserves	9.96%	10.23%	9.98%	9.56%	10.25%	8.58%

DIRECTOR REQUESTS ATTORNEY GENERAL'S OPINION REGARDING PAYDAY LENDING

Date: January 20, 2000

To: All Licensees Engaged in Payday Lending

From: Charles W. Phillips, Director

Indiana Department of Financial Institutions

Re: **Usurious Rates of Payday Lenders / Read with Care**

The Department is in receipt of an Official Indiana Attorney General's Opinion, dated January 19, 2000, concerning Payday Lending. Please review this opinion carefully as its content may affect whether your lending practices are in compliance with Indiana law as interpreted by the Attorney General.

The Attorney General has determined that any interest fees and charges made in conjunction with a consumer loan that exceeds 72% APR (annual percentage rate) is considered loansharking and subject to severe ramifications including prosecution, injunctions, fines and refunds. The opinion also addresses the question of exceeding the 36% APR usury limitation on small consumer loans.

Future examinations of payday lenders will be conducted in compliance with the parameters established by the Attorney General. The Department will soon issue a statement concerning the application of this interpretation. The Department will consult the Attorney General for guidance.

Please review the opinion with your attorney and proceed accordingly. The Department cannot provide legal advice, but the question of void or voidable loan agreements, unconscionable practices, criminal charges, and refunds will be issues to be addressed by all affected parties.

ATTORNEY GENERAL ISSUES OPINION ON LEGALITY OF FEES CHARGED BY PAYDAY LENDERS

For Immediate Release
January 19, 2000

Payday lenders are breaking the law when they assess fees on loans that push the interest rate above a 36 percent annual percentage cap set by state law, Attorney General Jeff Modisett said today in an official opinion.

In some cases, Modisett said, these fees push the annual percentage rate to unconscionable levels that exceed by hundreds or even thousands of percentage points the annual percentage rate allowed under state law.

The opinion was issued to answer questions posed to the attorney general by Charles Phillips, Director of the Indiana Department of Financial Institutions. According to the opinion, a typical payday loan works as follows. A lender signs a contract with a borrower, agreeing to take the borrower's postdated check as collateral for a cash advance. The lender agrees not to deposit the check for a specified period of time, yet pays cash immediately to the borrower. For example, to obtain a $100 loan, the borrower might pay a $33 finance charge and write a check for $100. The lender gives the borrower $100 and agrees not to cash the borrower's check for two weeks.

If, after two weeks, borrowers lack sufficient funds to cover the $100 check, they can "roll over" the loan by paying an additional loan finance charge, earning additional time to repay an even larger amount of money.

"In little time, this series of charges can amount to an annual percentage rate that would make a loan shark blush," Modisett said. "Any interest fees and charges made in conjunction with a consumer loan by payday lenders that exceeds 72 percent violates Indiana's loansharking statute, which is a criminal violation."

Payday lenders have claimed the charges they assess borrowers are authorized by Indiana's consumer credit code, but Modisett said his office has concluded otherwise.

"We conclude generally that lenders violate Indiana law when they offer supervised loans having finance charges that exceed the annual percentage rates set out in Indiana's consumer credit code," Modisett said. "Finance charges that exceed the statutory caps outlined in this code are subject to refund. A transaction is void and violates Indiana's loansharking statute if the lender charges an interest rate greater than twice the rate authorized for finance charges in the consumer credit code."

2000 LEGISLATION
HOUSE ENROLLED ACT NO. 1010 SUMMARY

COMMENTARY

IC 24-4.5 INDIANA UNIFORM CONSUMER CREDIT CODE:

Section 1-102(4) – Effective upon passage. – Updated reference to federal law in IC 24-4.5 as the law that is in effect December 31, 1999.

Section 1-301(21) – Effective July 1, 2000. – Added new section defining "Mortgage servicer" means the last person to whom a mortgagor or the mortgagor's successor in interest has been instructed by a mortgagee to send payments on a loan secured by a mortgage.

Section 2-104(2)(b) – Effective July 1, 2000. – Added "providing payoff amounts (IC24-4.5-2-209)"; making that section apply to first lien transactions.

Section 3-105 – Effective July 1, 2000. – Added "providing payoff amounts (IC24-4.5-3-209)"; making that section apply to first lien transactions.

Section 2-209 and 3-209– Effective July 1, 2000. - Add new subsections: (2) Clarifies that the maximum rate of interest cannot be exceeded upon prepayment for the period the credit sale/loan was in effect for a simple interest transaction that includes prepaid credit service charges/finance charges.

(3) Requires a creditor to give the debtor an accurate payoff of their account. If the payoff is not given within 10 business days from receipt of the written request from the debtor, the creditor or mortgage servicer is liable for (A) One hundred dollars ($100) if an accurate consumer credit sale/loan payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's first written request; and (B) the greater of: (i) one hundred dollars ($100); or (ii) the credit service charge that accrues on the sale/loan from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate consumer credit sale payoff amount is provided; if an accurate consumer credit sale/loan payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer failed to comply with clause(A). A liability under this subsection is an excess charge under IC 24-4.5-5-202.

Section 3-502 – Effective July 1, 2000. - Clarifies section to cover "regularly" engaged lenders and that the three (3) month's window to operate without an approved license is strictly applicable to lenders who take assignment of loans.

Section 3-503(2) – Effective July 1, 2000. - Adds a sentence that evidence of compliance for a loan license includes but is not limited to a report of criminal activity of the applicant from the state in which the applicant resides. Some states require that the provision for a criminal history be in the requesting state's law before they will issue a criminal history. This addition will enable us to secure criminal histories from those states.

Section 3-503(6) – Effective July 1, 2000. -Adds subsection clarifying those licenses is not assignable or transferable.

Section 5-204 – Effective July 1, 2000. - Add section (2) requiring a creditor to make available for disbursement the proceeds of a transaction subject to subsection (1) on the later of: (A) the date the creditor is reasonably satisfied that the consumer has not rescinded the transaction; or (B) the first business day after the expiration of the rescission period under subsection (1).

If you have questions regarding the 2000 legislation referenced above, please feel free to contact Consumer Credit Supervisor, Mark Tarpey at 317-232-3955 or mtarpey@dfi.state.in.us.

WANTED: YOUR IDEAS, SUGGESTIONS, AND OBSERVATIONS

We are always striving to improve this newsletter, and listening to our readers' suggestions is one way to accomplish this task. Please, if you have any comments or suggestions, feel free to contact Jim Cooper or Tracy Baker at the addresses or numbers below. We are proud of our state banking system and the people who strive to make it work!

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